

**AN ORDINANCE
BY COUNCILMEMBER IVORY YOUNG
AS SUBSTITUTED BY THE FULL COUNCIL**

AN ORDINANCE TO AUTHORIZE ACQUISITION OF TEMPORARY AND PERMANENT EASEMENTS, FEE SIMPLE AND OTHER RELATED PROPERTY INTERESTS NECESSARY FOR CONSTRUCTION OF THE SEWER INFRASTRUCTURE IMPROVEMENT PROJECT DESCRIBED IN EXHIBIT "A" ATTACHED HERETO; TO AUTHORIZE THE MAYOR AND CHIEF PROCUREMENT OFFICER TO NEGOTIATE WITH AFFECTED PROPERTY OWNERS TO ACQUIRE PROPERTY ON A VOLUNTARY BASIS FOR A PERIOD OF NOT LESS THAN SIX (6) MONTHS FROM THE ADOPTION OF THIS ORDINANCE, PROVIDED, HOWEVER, THAT AFTER SUCH TIME THE MAYOR AND CHIEF PROCUREMENT OFFICER SHALL BE AUTHORIZED TO USE ALL MEANS NECESSARY TO ACQUIRE NECESSARY FEE SIMPLE AND EASEMENT AND OTHER RELATED PROPERTY INTERESTS, UP TO AND INCLUDING CONDEMNATION PROCEEDINGS; TO WAIVE LIMITED PROVISIONS OF THE CITY OF ATLANTA CODE OF ORDINANCES REGARDING PROCUREMENT AND REAL ESTATE ACQUISITIONS AND FURTHER AUTHORIZATION OF COUNCIL FOR CONDEMNATION PROCEEDINGS; TO AUTHORIZE THE MAYOR AND CHIEF PROCUREMENT OFFICER TO APPLY FOR GEORGIA EMERGENCY MANAGEMENT AGENCY ("GEMA") GRANTS WHERE APPLICABLE; TO AUTHORIZE THE CITY ATTORNEY, OR HER DESIGNEE, TO INSTITUTE CONDEMNATION PROCEEDINGS PURSUANT TO THE DECLARATION OF TAKING METHOD AUTHORIZED BY TITLE 22 OF THE OFFICIAL CODE OF GEORGIA ANNOTATED; TO AUTHORIZE THE CITY ATTORNEY TO USE THE SERVICES OF OUTSIDE COUNSEL, WHERE NECESSARY, TO HANDLE CONDEMNATION CASES; AND FOR OTHER PURPOSES.

WHEREAS, on September 21, 2002 unprecedented heavy rainfall and other undetermined factors resulted in severe flooding in several neighborhoods in Council Districts 3 and 4, as well as other areas of Atlanta; and

WHEREAS, more than one hundred homes and apartments incurred severe damage as a result of this unprecedented storm, including inundation by stormwater mixed with raw sewage, thus creating a public health emergency; and

WHEREAS, the Council has previously authorized the Mayor to undertake and continue emergency relief efforts as set out in Resolution 02-R-1717, a copy of which is attached as **Exhibit "B"**; and

WHEREAS, in connection with such efforts the Mayor has directed the Department of Watershed Management to develop an appropriate sewer infrastructure Project to protect against the future exposure of residents and their homes and apartments to raw sewage mixed with stormwater; and

WHEREAS, the Mayor has directed the Department of Planning and Neighborhood Conservation to develop an appropriate project to revitalize the neighborhood outside the boundaries of the said sewer infrastructure Project and, further, to provide the Vine City community with a conceptual rendering demonstrating urban planning techniques; and

WHEREAS, the said sewer infrastructure Project is described in **Exhibit "A"** attached hereto (hereinafter "the Project"); and

WHEREAS, following construction of the said sewer infrastructure Project, the City of Atlanta through its Department of Watershed Management will continue to own and operate the Project site for wastewater purposes and, subject to access for such wastewater purposes, will maintain the site at the surface as a naturalized greenspace; and

WHEREAS, the circumstances are such that it is necessary to proceed with acquisition of property for the sewer infrastructure Project described in **Exhibit "A"** by any method of eminent domain authorized by State law, including the declaration of takings as a method of condemnation authorized by O.C.G.A. §§ 22-3-140 and 32-3-4 for Project that involves public sewage collection, treatment or disposal; and

WHEREAS, the City may be eligible for grants administered under the Georgia Emergency Management Act and/or Federal Emergency Management Act provided that property necessary for the Project is acquired on a voluntary basis; accordingly, property for the Project is to be acquired on a voluntary basis for a period of not less than six (6) months and by eminent domain only after the Commissioner of the Department of Watershed Management determines that the project requires acquisition on a non-voluntary basis; and

WHEREAS, the City Attorney, or her designee, is hereby authorized to institute condemnation proceedings in accordance with the methods described above to acquire title to easements and fee simple and other related property interests necessary for the construction of the Project described in **Exhibit "A"**; and

WHEREAS, the acquisition of property interests for said sewer infrastructure improvement Project on an expedited basis has been deemed vital due to the extensive property damage resulting from the September 21, 2002 storm; and

WHEREAS, in order to acquire the necessary property interests, to complete the proposed infrastructure improvement in a timely fashion, and to expedite the condemnation process, it is necessary to waive limited provisions of the Code of Ordinances regarding acquisitions.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, as follows:

Section 1. The Chief Procurement Officer is hereby authorized to obtain appraisals and to establish estimates of just compensation based on these appraisals to be offered to property owners as reasonable compensation in connection with the said infrastructure improvement Project.

Section 2. The Project described in **Exhibit “A”** hereto is approved and the Mayor, or her designee or the Chief Procurement Officer, is authorized to negotiate with the affected property owners to acquire the necessary temporary or permanent construction easements and fee simple and other related property interests necessary to complete the Project described in **Exhibit “A”** in accordance with the time requirements described above to acquire property for a period of not less than six (6) months from the adoption of this ordinance on a voluntary basis only and thereafter, as described below, by eminent domain.

Section 3. The requirements of City of Atlanta Code Sections, 2-1541(d) and 2-1545(d) are waived for the infrastructure improvement Project described in this ordinance, and in **Exhibit “A.”** All requirements for City of Atlanta Code Section 2-1542 are to remain in effect in their entirety. The Chief Procurement Officer shall be authorized to make purchases of property in accordance with provisions of this ordinance on behalf of the City without further authorization of City Council.

Section 4. The City’s Program Management Consultants and their sub consultants for real estate acquisition are authorized to settle those acquisitions of property for an amount not to exceed ten percent (10%) above the estimated just compensation. The Chief Procurement Officer is authorized to administratively settle those acquisitions that the City’s consultants cannot otherwise acquire for an amount not to exceed twenty percent (20%) above the estimated just compensation of affected properties without further authorization of City Council.

Section 5. If negotiations with affected property owners are successful, the Mayor, or her designee or the Chief Procurement Officer, is authorized to accept and execute options with such owners at the agreed price on behalf of the City for the purchase of easements, fee simple and other property interest in connection with the infrastructure

improvement Project in accordance with the provisions of this ordinance, without further authorization of City Council.

Section 6. The City Attorney, or her designee, is authorized to monitor and supervise closing transactions with affected property owners associated with the Project. These closing transactions may be performed by real estate consultants subcontracted by the City's Program Consultant.

Section 7. Following the six (6) month minimum period of voluntary acquisition referenced hereinabove, the Mayor or her designee or the Purchasing Agent shall provide to City Counsel a list of those properties in which no voluntary acquisition agreement with the affected property owners has been achieved. The City Attorney, or her designee, is thereafter authorized to use all means necessary and within her power, up to and including the institution of condemnation proceedings pursuant to the declaration of taking method authorized by Title 22 of the Official Code of Georgia Annotated, to acquire title to easements, fee simple and other related property interests necessary for the construction of the sewer infrastructure Project described in **Exhibit "A"**.

Section 8. The City Attorney is authorized to engage the services of outside counsel, where necessary, to handle condemnation proceedings, without further authorization from City Council.

Section 9. The City Attorney, the Chief Procurement Officer, and the Commissioner of the Department of Watershed Management, are authorized to seek federal or state funds available through the Georgia Emergency Management Agency or the Federal Emergency Management Act for the sewer infrastructure improvement Project described in **Exhibit "A"**.

Section 10. Following construction of the sewer infrastructure Project, the City of Atlanta through its Department of Watershed Management will continue to own and operate the Project site for wastewater purposes and, subject to access for such wastewater purposes, will maintain the site at the surface as a naturalized greenspace.

Section 11. Costs for land acquisition associated with this ordinance, not to exceed \$10,000,000.00, shall be charged to and paid from the appropriate Fund, Account and Center as follows:

Fund: 2J27; Account: 791001; and Center: T11001.

Section 12. All other ordinances or parts of ordinances in conflict herewith are repealed to the extent of said conflict.